

**SALES AND USE TAX - HIGHWAYS AND
PUBLIC TRANSPORTATION AMENDMENTS**

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: John Dougall

Senate Sponsor: Mark B. Madsen

LONG TITLE

General Description:

This bill amends the Sales and Use Tax Act relating to highways and public transportation.

Highlighted Provisions:

This bill:

- ▶ provides that a county, city, or town is not required to be located within a transit district to impose certain local option sales and use taxes for highways, public transportation, and fixed guideways;
- ▶ modifies the percentages of revenues designated for certain uses for purposes of the revenues generated by the additional public transit tax within a county of the first class;
- ▶ repeals the requirement that a project relating to a fixed guideway system or a system for public transit be owned and operated by a public transit district in order for a county to expend revenues generated by the tax under Title 59, Chapter 12, Part 15, County Option Sales and Use Tax for Highways, Fixed Guideways, or Systems for Public Transit, to fund that project; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2007.

Utah Code Sections Affected:

AMENDS:

59-12-501, as last amended by Chapter 253, Laws of Utah 2006

59-12-502, as last amended by Chapters 253 and 329, Laws of Utah 2006

59-12-1503, as last amended by Chapter 253, Laws of Utah 2006

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **59-12-501** is amended to read:

59-12-501. Public transit tax -- Base -- Rate -- Voter approval.

(1) (a) (i) In addition to other sales and use taxes, any county, city, or town ~~[within a transit district organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act,]~~ may impose a sales and use tax of up to .25% on the transactions described in Subsection 59-12-103(1) located within the county, city, or town, to fund a public transportation system.

(ii) Notwithstanding Subsection (1)(a)(i), a county, city, or town may not impose a tax under this section on:

(A) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; and

(B) any amounts paid or charged by a seller that collects a tax under Subsection 59-12-107(1)(b).

(b) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Section 59-12-207.

(c) ~~[(i)]~~ A county, city, or town may impose a tax under this section only if the governing body of the county, city, or town, by resolution, submits the proposal to all the qualified voters within the county, city, or town for approval at a general or special election conducted in the manner provided by statute.

~~[(ii) An election under Subsection 17B-2-512(3)(a)(ii) approving the annexation of an area to a public transit district or local district and approving for that annexed area the sales and use tax authorized by this section satisfies the election requirement of Subsection (1)(c)(i) for~~

the area to be annexed to the public transit district or local district.]

~~[(2) (a) If only a portion of a county is included within a public transit district, the proposal may be submitted only to the qualified voters residing within the boundaries of the proposed or existing public transit district.]~~

~~[(b)]~~ (a) Notice of any such election shall be given by the county, city, or town governing body 15 days in advance in the manner prescribed by statute.

~~[(c)]~~ (b) If a majority of the voters voting in such election approve the proposal, it shall become effective on the date provided by the county, city, or town governing body.

(3) This section may not be construed to require an election in jurisdictions where voters have previously approved a public transit sales or use tax.

Section 2. Section **59-12-502** is amended to read:

59-12-502. Additional public transit tax for expanded system and fixed guideway and interstate improvements -- Base -- Rate -- Voter approval.

(1) (a) (i) In addition to other sales and use taxes, including the public transit district tax authorized by Section 59-12-501, a county, city, or town ~~[within a transit district organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act,]~~ may impose a sales and use tax of .25% on the transactions described in Subsection 59-12-103(1) located within the county, city, or town, to fund a fixed guideway and expanded public transportation system.

(ii) Notwithstanding Subsection (1)(a)(i), a county, city, or town may not impose a tax under this section on:

(A) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; and

(B) any amounts paid or charged by a seller that collects a tax under Subsection 59-12-107(1)(b).

(b) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Section 59-12-207.

(c) (i) A county, city, or town may impose the tax under this section only if the governing body of the county, city, or town submits, by resolution, the proposal to all the

qualified voters within the county, city, or town for approval at a general or special election conducted in the manner provided by statute.

(ii) Notice of the election under Subsection (1)(c)(i) shall be given by the county, city, or town governing body 15 days in advance in the manner prescribed by statute.

(2) If the majority of the voters voting in this election approve the proposal, it shall become effective on the date provided by the county, city, or town governing body.

(3) (a) This section may not be construed to require an election in jurisdictions where voters have previously approved a public transit sales or use tax.

(b) This section shall be construed to require an election to impose the sales and use tax authorized by this section, including jurisdictions where the voters have previously approved the sales and use tax authorized by Section 59-12-501, but this section may not be construed to affect the sales and use tax authorized by Section 59-12-501.

(4) No public funds shall be spent to promote the required election.

(5) (a) Notwithstanding the designated use of revenues in Subsection (1), of the revenues generated by the tax imposed under this section by any county of the first class:

(i) ~~[75%]~~ 80% shall be allocated to fund a fixed guideway and expanded public transportation system; and

(ii) except as provided in Subsection (5)(b), ~~[25%]~~ 20% shall be allocated to fund new construction, major renovations, and improvements to Interstate 15 and state highways within the county and to pay any debt service and bond issuance costs related to those projects.

(b) Notwithstanding the designated use of revenues in Subsection (1), beginning on July 1, 2006, and ending on July 1, 2007, a county of the first class may expend an amount not to exceed \$3,500,000 of the revenues described in Subsection (5)(a)(ii) for expenses relating to reconfiguring railroad curves within that county to reduce rail congestion.

(6) A county of the first class may, through an interlocal agreement, authorize the deposit or transfer of the portion of the revenues described in Subsection (5)(a)(ii) to the Public Transportation System Tax Highway Fund created in Section 72-2-121.

Section 3. Section **59-12-1503** is amended to read:

59-12-1503. Opinion question election -- Base -- Rate -- Imposition of tax -- Use of tax revenues -- Administration, collection, and enforcement of tax by commission -- Administrative fee -- Enactment or repeal of tax -- Annexation -- Notice.

(1) (a) Beginning on or after April 1, 2004, and subject to the other provisions of this part, the county legislative body of a qualifying county may impose a sales and use tax of .25%:

(i) on the transactions:

(A) described in Subsection 59-12-103(1); and

(B) within the county, including the cities and towns within the county;

(ii) for the purposes determined by the county legislative body in accordance with Subsection (2); and

(iii) in addition to any other sales and use tax authorized under this chapter.

(b) Notwithstanding Subsection (1)(a)(i), a county legislative body may not impose a tax under this section on:

(i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; or

(ii) any amounts paid or charged by a seller that collects a tax under Subsection 59-12-107(1)(b).

(c) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Section 59-12-207.

(2) (a) Subject to Subsection (2)(b), before obtaining the approval required by Subsection (3), a county legislative body shall adopt a resolution specifying the percentage of revenues the county will receive from the tax under this part that will be allocated to fund one or more of the following:

(i) a project or service relating to a fixed guideway system[~~:(A)~~] for the portion of the project or service that is performed within the county; [~~and~~]

[~~(B) if the fixed guideway system is owned and operated by a public transit district organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act;~~]

(ii) a project or service relating to a system for public transit[~~:(A)~~] for the portion of

the project or service that is performed within the county; ~~[and]~~ or

~~[(B) if the system for public transit is owned and operated by a public transit district organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act, or]~~

(iii) the following relating to a state highway within the county:

(A) a project beginning on or after the day on which a county legislative body imposes a tax under this part only within the county involving:

(I) new construction;

(II) a renovation;

(III) an improvement; or

(IV) an environmental study;

(B) debt service on a project described in Subsections (2)(a)(iii)(A)(I) through (IV); or

(C) bond issuance costs relating to a project described in Subsections (2)(a)(iii)(A)(I) through (IV).

(b) (i) A county legislative body shall in the resolution required by Subsection (2)(a) allocate as required by Subsection (2)(a) 100% of the revenues the county will receive from the tax under this part.

(ii) For purposes of this Subsection (2)(b), the revenues a county will receive from the tax under this part do not include amounts retained by the commission in accordance with Subsection (8).

(3) (a) Before imposing a tax under this part, a county legislative body shall:

(i) obtain approval from a majority of the members of the county legislative body to:

(A) impose the tax; and

(B) allocate the revenues the county will receive from the tax in accordance with the resolution adopted in accordance with Subsection (2); and

(ii) subject to Subsection (3)(b), submit an opinion question to the county's registered voters voting on the imposition of the tax so that each registered voter has the opportunity to express the registered voter's opinion on whether a tax should be imposed under this part.

(b) The opinion question required by Subsection (3)(a)(ii) shall state the allocations

specified in the resolution:

(i) adopted in accordance with Subsection (2); and

(ii) approved by the county legislative body in accordance with Subsection (3)(a).

(c) The election required by this Subsection (3) shall be held:

(i) (A) at a regular general election; and

(B) in accordance with the procedures and requirements of Title 20A, Election Code, governing regular general elections; or

(ii) (A) at a special election called by the county legislative body;

(B) only on the date of a municipal general election provided in Subsection 20A-1-202(1); and

(C) in accordance with the procedures and requirements of Section 20A-1-203.

(4) (a) Subject to Subsection (8), if a county legislative body determines that a majority of the county's registered voters voting on the imposition of the tax have voted in favor of the imposition of the tax in accordance with Subsection (3), the county legislative body may impose the tax by a majority vote of all of the members of the county legislative body.

(b) If a county legislative body imposes a tax under Subsection (4)(a), the revenues generated by the tax shall be:

(i) allocated in accordance with the allocations specified in the resolution under Subsection (2); and

(ii) expended as provided in this part.

(5) If a county legislative body allocates revenues generated by the tax for a project described in Subsection (2)(a)(iii)(A), before beginning the project the county legislative body shall:

(a) obtain approval from the Transportation Commission to complete the project; and

(b) enter into an interlocal agreement:

(i) established in accordance with Title 11, Chapter 13, Interlocal Cooperation Act;

(ii) with the Department of Transportation; and

(iii) to complete the project.

(6) (a) If after a county legislative body imposes a tax under Subsection (4) the county legislative body seeks to change the allocation of the tax specified in the resolution under Subsection (2), the county legislative body may change the allocation of the tax by:

(i) adopting a resolution in accordance with Subsection (2) specifying the percentage of revenues the county will receive from the tax under this part that will be allocated to fund one or more of the systems or projects described in Subsection (2);

(ii) obtaining approval to change the allocation of the tax from a majority of the members of the county legislative body; and

(iii) (A) submitting an opinion question to the county's registered voters voting on changing the allocation of the tax so that each registered voter has the opportunity to express the registered voter's opinion on whether the allocation of the tax should be changed; and

(B) obtaining approval to change the allocation of the tax from a majority of the county's registered voters voting on changing the allocation of the tax.

(b) (i) The opinion question required by Subsection (6)(a)(iii) shall state the allocations specified in the resolution:

(A) adopted in accordance with Subsection (6)(a)(i); and

(B) approved by the county legislative body in accordance with Subsection (6)(a)(ii).

(ii) The election required by Subsection (6)(a)(iii) shall follow the procedures and requirements of Title 11, Chapter 14, Local Government Bonding Act.

(7) (a) (i) Except as provided in Subsection (7)(a)(ii), revenues generated by a tax under this part that are allocated for a purpose described in Subsection (2)(a)(i) or (ii) shall be transmitted:

(A) by the commission;

(B) to the county;

(C) monthly; and

(D) by electronic funds transfer.

(ii) Notwithstanding Subsection (7)(a)(i), a county may request that the commission transfer the revenues described in Subsection (7)(a)(i):

226 (A) directly to a public transit district:
227 (I) organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act; and
228 (II) designated by the county; and
229 (B) by providing written notice to the commission:
230 (I) requesting the revenues to be transferred directly to a public transit district as
231 provided in Subsection (7)(a)(ii)(A); and
232 (II) designating the public transit district to which the revenues are requested to be
233 transferred.
234 (b) Revenues generated by a tax under this part that are allocated for a purpose
235 described in Subsection (2)(a)(iii) shall be:
236 (i) deposited into the State Highway Projects Within Counties Fund created by Section
237 72-2-121.1; and
238 (ii) expended as provided in Section 72-2-121.1.
239 (8) (a) (i) Except as provided in Subsection (8)(a)(ii), the tax authorized under this part
240 shall be administered, collected, and enforced in accordance with:
241 (A) the same procedures used to administer, collect, and enforce the tax under:
242 (I) Part 1, Tax Collection; or
243 (II) Part 2, Local Sales and Use Tax Act; and
244 (B) Chapter 1, General Taxation Policies.
245 (ii) Notwithstanding Subsection (8)(a)(i), a tax under this part is not subject to
246 Subsections 59-12-205(2) through (7).
247 (b) (i) The commission may retain an amount of tax collected under this part of not to
248 exceed the lesser of:
249 (A) 1.5%; or
250 (B) an amount equal to the cost to the commission of administering this part.
251 (ii) Any amount the commission retains under Subsection (8)(b)(i) shall be:
252 (A) placed in the Sales and Use Tax Administrative Fees Account; and
253 (B) used as provided in Subsection 59-12-206(2).

(9) (a) (i) Except as provided in Subsection (9)(b) or (c), if, on or after July 1, 2004, a county enacts or repeals a tax under this part, the enactment or repeal shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (9)(a)(ii) from the county.

(ii) The notice described in Subsection (9)(a)(i)(B) shall state:

(A) that the county will enact or repeal a tax under this part;

(B) the statutory authority for the tax described in Subsection (9)(a)(ii)(A);

(C) the effective date of the tax described in Subsection (9)(a)(ii)(A); and

(D) if the county enacts the tax described in Subsection (9)(a)(ii)(A), the rate of the tax.

(b) (i) Notwithstanding Subsection (9)(a)(i), for a transaction described in Subsection (9)(b)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the enactment of the tax; and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax under Subsection (1).

(ii) Notwithstanding Subsection (9)(a)(i), for a transaction described in Subsection (9)(b)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax; and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax imposed under Subsection (1).

(iii) Subsections (9)(b)(i) and (ii) apply to transactions subject to a tax under:

(A) Subsection 59-12-103(1)(b);

(B) Subsection 59-12-103(1)(c);

(C) Subsection 59-12-103(1)(d);

(D) Subsection 59-12-103(1)(e);

(E) Subsection 59-12-103(1)(f);

(F) Subsection 59-12-103(1)(g);

(G) Subsection 59-12-103(1)(h);

(H) Subsection 59-12-103(1)(i);

(I) Subsection 59-12-103(1)(j); or

(J) Subsection 59-12-103(1)(k).

(c) (i) Notwithstanding Subsection (9)(a)(i), if a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (9)(a)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (9)(a)(i).

(ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(d) (i) Except as provided in Subsection (9)(e) or (f), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this part for an annexing area, the enactment or repeal shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (9)(d)(ii) from the county that annexes the annexing area.

(ii) The notice described in Subsection (9)(d)(i)(B) shall state:

(A) that the annexation described in Subsection (9)(d)(i)(B) will result in an enactment or repeal of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);

(C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and

(D) the rate of the tax described in Subsection (9)(d)(ii)(A).

(e) (i) Notwithstanding Subsection (9)(d)(i), for a transaction described in Subsection (9)(e)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the enactment of the tax; and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax under Subsection (1).

(ii) Notwithstanding Subsection (9)(d)(i), for a transaction described in Subsection (9)(e)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax; and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax imposed under Subsection (1).

(iii) Subsections (9)(e)(i) and (ii) apply to transactions subject to a tax under:

(A) Subsection 59-12-103(1)(b);

(B) Subsection 59-12-103(1)(c);

(C) Subsection 59-12-103(1)(d);

(D) Subsection 59-12-103(1)(e);

(E) Subsection 59-12-103(1)(f);

(F) Subsection 59-12-103(1)(g);

(G) Subsection 59-12-103(1)(h);

(H) Subsection 59-12-103(1)(i);

(I) Subsection 59-12-103(1)(j); or

(J) Subsection 59-12-103(1)(k).

(f) (i) Notwithstanding Subsection (9)(d)(i), if a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (9)(d)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (9)(d)(i).

(ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

Section 4. **Effective date.**

This bill takes effect on July 1, 2007.